

REMARKS

Claims 1-23 are pending in the Application. Claims 1-14, 16-18 and 20-21 have been amended as indicated above. These amendments are supported by the Specification. No new matter has been introduced.

Claims 2 and 13 are objected to under 37 C.F.R. §1.75(c). Additionally, the Specification is objected to. Furthermore, claims 14-21 are rejected under 35 U.S.C. §112, first paragraph. In addition, claims 1-23 are rejected under 35 U.S.C. §112, second paragraph. Further, claims 1-2, 7, 13-19 and 23 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting. Claims 1-3, 7-19 and 23 are non-provisionally rejected under the judicially created doctrine of obviousness-type double patenting. Claims 1-3, 7-10 and 13-23 are rejected under 35 U.S.C. §102(b). Additionally, claims 1-23 are rejected under 35 U.S.C. §102(b), or in the alternative, under 35 U.S.C. §103(a). In addition, claims 1-3, 7-19 and 23 are rejected under 35 U.S.C. §103(a).

I. CLAIM OBJECTIONS:

The Examiner has objected to claims 2 and 13 under 37 C.F.R. §1.75(c) as being in improper dependent form for failing to further limit the subject matter of a previous claim. Office Action (8/20/2009), page 12. As indicated above, Applicants amended claims 2 and 13 to address these objections. Accordingly, Applicants kindly request the Examiner to withdraw the objections to claims 2 and 13.

II. OBJECTIONS TO SPECIFICATION:

The Examiner has objected to the Specification because paragraph [0096] of the Specification includes chemical formulas that do not have proper subscripting. Office Action (8/20/2009), page 12. As indicated above, Applicants amended paragraph [0096] of the Specification to address the Examiner's concerns. Accordingly, Applicants kindly request the Examiner to withdraw the objections to the Specification.

III. REJECTIONS UNDER 35 U.S.C. §112, FIRST PARAGRAPH:

The Examiner has rejected claims 14-21 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Office Action (8/20/2009), page 13. In particular, the Examiner rejects claims 14-21 under 35 U.S.C. §112, first paragraph, because the Specification allegedly does not describe what constitutes a porous substrate. Applicants submit that by definition, a porous article must have pores. Therefore, claim 16 has been amended to remove the lower limitation. As a result, the range now extends from a size in which the skilled person would deem that the pores are present to 99% pore volumes. Accordingly, Applicants respectfully assert that claims 14-21 comply with the enablement requirement. Applicants kindly request the Examiner to withdraw the rejections of claims 14-21 under 35 U.S.C. §112, first paragraph.

IV. REJECTIONS UNDER 35 U.S.C. §112, SECOND PARAGRAPH:

The Examiner has rejected claims 1-23 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Office Action (8/20/2009), page 3. In particular, on pages 3-12 of the present Office Action, the Examiner specifically points out the reasons why the Examiner believes claims 1-23 are indefinite. Applicants have amended claims 1-14, 16-18 and 20-21 to address these concerns with the exceptions noted below.

In connection with claim 1, the Examiner indicates that it is unclear whether the substrate is made out of only a single material and cannot be a composite of more than one material. Office Action (8/20/2009), page 4. Applicants kindly direct the Examiner's attention to at least paragraph [0018] of Applicants' Specification, which states that "the material which is modified is a substrate which is defined as any article which is capable of supporting a coating applied thereto, so it will be appreciated that the same can be rigid or flexible, and can be any of a porous or non-porous substrate such as a film, powder or 3-dimensional article." Thus, Applicants respectfully assert that it would be clear to the skilled person that the substrate could be formed of composite material.

With respect to the Examiner's comments on page 5 of the present Office Action in connection with inert gas, whilst inert gas is occasionally used incorrectly as a synonym one of the noble gases, it is common general knowledge that an inert gas need not be an element but could be an inert compound in the gas phase. Nobel gases and inert gases have been used as precursors for plasma generation and therefore Applicants do not believe the skilled person would in any way be confused by the terminology of the claims.

With respect to the Examiner's issues on page 10 of the present Office Action with the pore volumes and what would constitute a solid article, Applicants submit that by definition, a porous article must have pores. Therefore, claim 16 has been amended to remove the lower limitation. As a result, the range now extends from a size in which the skilled person would deem that the pores are present to 99% pore volumes.

As a result of the above, Applicants respectfully assert that claims 1-23 are definite and allowable under 35 U.S.C. §112, second paragraph, and respectfully request the Examiner to withdraw the rejections of claims 1-23 under 35 U.S.C. §112, second paragraph.

V. OBVIOUSNESS-TYPE DOUBLE PATENTING:

The Examiner has provisionally rejected claims 1-2, 7, 13-19 and 23 under the judicially created doctrine of obviousness-type double patenting in view of claims 1-21 and 26 of co-pending Application No. 10/509,295. Office Action (8/20/2009), page 15. Applicants respectfully traverse.

In determining whether a nonstatutory basis exists for a double patenting rejection, the first question to be asked is—does any claim in the application define an invention that is merely an obvious variation of an invention claimed in the patent? M.P.E.P. §804. A double patenting rejection of the obviousness-type is "analogous to [a failure to meet] the nonobviousness requirement of 35 U.S.C. §103" except that the patent principally underlying the double patenting rejection is not considered prior art. In re Braithwaite, 379 F.2d 594, 154 U.S.P.Q. 29 (C.C.P.A. 1967); M.P.E.P. §804. Therefore, any analysis employed in an obviousness-type double patenting rejection

parallels the guidelines for analysis of a 35 U.S.C. §103 obviousness determination. *In re Braat*, 937 F.2d 589, 19 U.S.P.Q.2d 1289 (Fed. Cir. 1991); *In re Longi*, 759 F.2d 887, 225 U.S.P.Q. 645 (Fed. Cir. 1985).

Since the analysis employed in an obviousness-type double patenting determination parallels the guidelines for a 35 U.S.C. §103(a) rejection, the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. §103 are employed when making an obvious-type double patenting analysis. M.P.E.P. §804. However, the Examiner has not made any such inquiry. The Examiner has not made any factual inquiries (1) to determine the scope and content of a patent claim and the prior art relative to a claim in the application at issue; (2) to determine the differences between the scope and content of the patent claim and the prior art as determined in (1) and the claim in the application at issue; (3) to determine the level of ordinary skill in the art; and (4) to evaluate any objective indicia of nonobviousness. M.P.E.P. §804. Any obviousness-type double patenting rejection should make clear the differences between the inventions defined by the conflicting claims—a claim in the co-pending patent application compared to a claim in the application. M.P.E.P. §804. Further, any obviousness-type double patenting rejection should include reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the co-pending patent application. M.P.E.P. §804. The Examiner has not made clear the differences between the inventions claimed in the application and the claims in the co-pending Application.

For example, claim 1 of the present application states:

A method of applying a stable conditioning effect to a cross-linkable material substrate, said conditioning effect comprising exposing the substrate to the treatment steps of: (i) cross-linking of the material of either the exterior surface or any internal surfaces of the substrate, or cross-linking the material of both surfaces; and (ii) plasma modification of, or plasma deposition onto, the cross-linked material; wherein the cross linking of the material in step (i) can optionally be preformed by plasma modification.

Claim 1 of co-pending Application No. 10/509,295 currently states:

A method of applying a coating to a surface of a substrate, said method comprising the successive steps of: (i) applying a polymer material to the said substrate to form at least part of the coating; (ii) fluorinating the surface of said coating on the substrate and (iii) curing at least part of the said coating.

Clearly, the scope and content of claim 1 of the application at issue is not an obvious variant of claim 1 of co-pending Application No. 10/509,295. Claim 1 of the application at issue does not include limitations directed to: applying a polymer material to a substrate to form at least part of the coating; fluorinating the surface of the coating on the substrate; and curing at least part of the coating. Furthermore, claim 1 of the application at issue includes treatment steps, such as cross-linking of the material of either the exterior surface or any internal surfaces of the substrate, or cross-linking the material of both surfaces; and plasma modification of, or plasma deposition onto, the cross-linked material, where the cross linking of the material can optionally be preformed by plasma modification. How can the Examiner assert that claim 1 of the application at issue is an obvious variant of claim 1 of co-pending Application No. 10/509,295? The Examiner has not made clear the differences between the inventions claimed in the application and the claims in the co-pending Application. Consequently, in view of the foregoing, the Examiner has not provided a basis for an obviousness-type double patenting rejection of claims 1-2, 7, 13-19 and 23. Thus, the rejections of claims 1-2, 7, 13-19 and 23 under obviousness-type double patenting are improper.

Additionally, the Examiner has rejected claim 23 under the judicially created doctrine of obviousness-type double patenting in view of claims 1, 12-13 and 20-26 of U.S. Patent No. 6,551,950. Office Action (8/20/2009), page 16. Applicants respectfully traverse.

As stated above, the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. §103 are employed when making an obvious-type double patenting analysis. M.P.E.P. §804. However, the Examiner has not made any such inquiry. The Examiner has not made any factual inquiries (1) to determine the

scope and content of a patent claim and the prior art relative to a claim in the application at issue; (2) to determine the differences between the scope and content of the patent claim and the prior art as determined in (1) and the claim in the application at issue; (3) to determine the level of ordinary skill in the art; and (4) to evaluate any objective indicia of nonobviousness. M.P.E.P. §804. Any obviousness-type double patenting rejection should make clear the differences between the inventions defined by the conflicting claims—a claim in the patent compared to a claim in the application. M.P.E.P. §804. Further, any obviousness-type double patenting rejection should include reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the patent. M.P.E.P. §804. The Examiner has not made clear the differences between the invention claimed in the application and the claims in U.S. Patent No. 6,551,950.

Applicants kindly direct the Examiner's attention to claim 1 of U.S. Patent No. 6,551,950. None of these limitations appear in claim 1 of the present application. Furthermore, claim 1 of the application at issue includes treatment steps, such as cross-linking of the material of either the exterior surface or any internal surfaces of the substrate, or cross-linking the material of both surfaces; and plasma modification of, or plasma deposition onto, the cross-linked material, where the cross linking of the material can optionally be preformed by plasma modification. How can the Examiner assert that claim 1 of the application at issue is an obvious variant of claim 1 of U.S. Patent No. 6,551,950? The Examiner has not made clear the differences between the invention claimed in the application and the claims in U.S. Patent No. 6,551,950. Consequently, in view of the foregoing, the Examiner has not provided a basis for an obviousness-type double patenting rejection of claim 23. Thus, the rejection of claim 23 under obviousness-type double patenting is improper.

Furthermore, the Examiner appears to be relying upon the Specification of U.S. Patent No. 6,551,950 in its analysis as to why claim 23 is rejected under obviousness-type double patenting in view of claims 1, 12-13 and 20-26 of U.S. Patent No. 6,551,950. Office Action (8/20/2009), pages 16-17.

The disclosure of a patent cited in support of a double patenting rejection cannot be used as though it was prior art, even where the disclosure is found in the claims. *General Foods Corp. v. Studiengesellschaft Kohle mbH*, 23 U.S.P.Q.2d 1839, 1846 (Fed. Cir. 1992). Instead, the claims of the patent are used as the basis for a double patenting rejection. *Id.* Claims must be read as a whole in analyzing a claim of double patenting. *General Foods Corp. v. Studiengesellschaft Kohle mbH*, 23 U.S.P.Q.2d 1839, 1843 & 1845 (Fed. Cir. 1992). Relying upon the disclosure of a patent is an improper analysis employed in an obviousness-type double patenting rejection. As stated above, the Examiner is to first determine the scope and content of the patent claim (claims in U.S. Patent No. 6,551,950) relative to a claim in the application at issue. That is, the Examiner is to compare each entire claim individually in the patent (U.S. Patent No. 6,551,950) relative to each claim in the application individually. In this manner, the Examiner would then be determining whether the invention defined by a claim in the patent (U.S. Patent No. 6,551,950) is merely an obviousness variation of an invention claimed in the application at issue. Thus, the rejection of claim 23 under obviousness-type double patenting is improper.

Additionally, the Examiner has rejected claims 1-3 and 7-9 under the judicially created doctrine of obviousness-type double patenting in view of claims 1-19 and 24 of U.S. Patent No. 6,551,950 and in further view of Seki et al. (JP 03-14677) (hereinafter "Seki"). Office Action (8/20/2009), page 17. Applicants respectfully traverse for at least the reasons discussed above in connection with the Examiner's rejection of claim 23 under the judicially created doctrine of obviousness-type double patenting in view of U.S. Patent No. 6,551,950. Accordingly, claims 1-3 and 7-9 are not properly rejected under the judicially created doctrine of obviousness-type double patenting in view of claims 1-19 and 24 of U.S. Patent No. 6,551,950 and in further view of Seki.

VI. REJECTIONS UNDER 35 U.S.C. §102(b):

The Examiner has rejected claims 1-3, 8, 13-19 and 23 under 35 U.S.C. §102(b) as being anticipated by Schultz Yamasaki et al. (U.S. Patent No. 6,156,394) (hereinafter "Yamasaki"). Additionally, the Examiner has rejected claims 1-2 and 7-10 under 35

U.S.C. §102(b) as being anticipated by Nguyen et al. (U.S. Patent No. 5,244,730) (hereinafter "Nguyen"). Furthermore, claims 1-3, 8, 13-16 and 17-23 are rejected under 35 U.S.C. §102(b) as being anticipated by Sano et al. (U.S. Patent No. 4,265,959) (hereinafter "Sano"). Applicants respectfully traverse for at least the reasons stated below and respectfully request the Examiner to reconsider and withdraw these rejections.

For a claim to be anticipated under 35 U.S.C. §102, each and every claim limitation must be found within the cited prior art reference and arranged as required by the claim. M.P.E.P. §2131.

A. Claims 1-3, 8, 13-19 and 23 are not properly rejected under 35 U.S.C. §102(b) as being anticipated by Yamasaki.

Yamasaki discloses improving the adhesion of optical coatings by first plasma treating the substrate and then deposition of the optical coating, also using plasma techniques. The amended independent claims of the current application, claims 1, 2 and 13, disclose the method of producing stable conditioning effect which produces hydrophilic coatings. The cross linking step in the current application stabilises the substrate. Stability of the cross-linked substrate is determined thermally or by solvent washing (basis for this can be found on page 7, paragraph 3 and page 12, paragraph 2 of the application as filed). There is no disclosure or suggestion in Yamasaki of the improvements in stability. Yamasaki simply states that the plasma treatment improves the adhesion of the optical coating to the polymer. As such, the amended independent claims of the current application are not anticipated by Yamasaki. Furthermore, Yamasaki relates to completely functionally different articles, therefore the skilled person would have no motivation to combine the teachings therein with another prior art document. Thus, Yamasaki does not disclose all of the limitations of independent claims 1, 2 and 13, and thus Yamasaki does not anticipate independent claims 1, 2 and 13. M.P.E.P. §2131.

Claims 3, 8 and 23 each recite combinations of features of independent claim 1, and hence claims 3, 8 and 23 are not anticipated by Yamasaki for at least the above-stated reasons that claim 1 is not anticipated by Yamasaki.

Furthermore, claims 14-19 each recite combinations of features of independent claim 13, and hence claims 14-19 are not anticipated by Yamasaki for at least the above-stated reasons that claim 13 is not anticipated by Yamasaki.

As a result of the foregoing, Applicants respectfully assert that not each and every claim limitation was found within Yamasaki, and thus claims 1-3, 8, 13-19 and 23 are not anticipated by Yamasaki. M.P.E.P. §2131.

B. Claims 1-2 and 7-10 are not properly rejected under 35 U.S.C. §102(b) as being anticipated by Nguyen.

Applicants submit that when the current amendments are taken into account, Nguyen cannot be considered to anticipate the claims of the current application because there is no disclosure of the first step being a stabilising cross-linking step formed on the substrate, as recited in independent claims 1 and 2. The independent claims do not, under any construction, include the step of first forming a coating on the substrate by plasma induced polymerisation. The independent claims are therefore not anticipated by Nguyen. In addition, Nguyen does not teach anything applicable to the problems addressed by the current invention, i.e., increased absorption. Thus, Nguyen does not disclose all of the limitations of independent claims 1 and 2, and thus Nguyen does not anticipate independent claims 1 and 2. M.P.E.P. §2131.

Claims 7-10 each recite combinations of features of independent claim 1, and hence claims 7-10 are not anticipated by Nguyen for at least the above-stated reasons that claim 1 is not anticipated by Nguyen.

As a result of the foregoing, Applicants respectfully assert that not each and every claim limitation was found within Nguyen, and thus claims 1-2 and 7-10 are not anticipated by Nguyen. M.P.E.P. §2131.

C. Claims 1-3, 8 and 13-23 are not properly rejected under 35 U.S.C. §102(b) as being anticipated by Sano.

Sano discloses the sulphonation of a membrane substrate using a plasma discharge. Sano does not disclose nor teach that a substrate is cross-linked in a first step before further plasmachemical modification, as claimed in independent claims 1, 2 and

13. For at least this reason, Applicants submit that the current amended application is not anticipated by Sano. Furthermore, because this disclosure relates to a different field to the current claims of the present invention, Applicants do not believe there is any motivation to combine the teachings of Sano with any other document to lead to the present invention of a stable conditioning effect being applied to a substrate. Thus, Sano does not disclose all of the limitations of independent claims 1, 2 and 13, and thus Sano does not anticipate independent claims 1, 2 and 13. M.P.E.P. §2131.

Claims 3, 8 and 22-23 each recite combinations of features of independent claim 1, and hence claims 3, 8 and 22-23 are not anticipated by Sano for at least the above-stated reasons that claim 1 is not anticipated by Sano.

Furthermore, claims 14-21 each recite combinations of features of independent claim 13, and hence claims 14-21 are not anticipated by Sano for at least the above-stated reasons that claim 13 is not anticipated by Sano.

As a result of the foregoing, Applicants respectfully assert that not each and every claim limitation was found within Sano, and thus claims 1-3, 8 and 13-23 are not anticipated by Sano. M.P.E.P. §2131.

VII. REJECTIONS UNDER 35 U.S.C. §102(b)/103(a):

The Examiner has rejected claims 1-3, 7-16 and 22-23 under 35 U.S.C. §102(b) as being anticipated by Badyal et al. (U.S. Patent No. 6,358,569) (hereinafter "Badyal '569"), or in the alternative, under 35 U.S.C. §103(a) as being obvious over Badyal '569. Furthermore, the Examiner has rejected claims 1-3, 8-10 and 13 under 35 U.S.C. §102(b) as being anticipated by Kamel et al. (U.S. Patent No. 5,326,584) (hereinafter "Kamel"), or in the alternative, under 35 U.S.C. §103(a) as being obvious over Kamel. Additionally, the Examiner has rejected claims 1-8, 13-14 and 17-23 under 35 U.S.C. §102(b) as being anticipated by Peyman et al. (U.S. Patent No. 4,312,575) (hereinafter "Peyman"), or in the alternative, under 35 U.S.C. §103(a) as being obvious over Peyman.

Applicants respectfully traverse for at least the reasons stated below and respectfully request the Examiner to reconsider and withdraw these rejections.

- A. Claims 1-3, 7-16 and 22-23 are not properly rejected under 35 U.S.C. §102(b) as being anticipated by Badyal '569, or in the alternative, under 35 U.S.C. §103(a) as being obvious over Badyal '569.

Badyal '569 relates to plasma deposition on a substrate to produce hydrophobic coatings. The Examiner states, without any justification, that it is inherently disclosed that some cross-linking will occur during plasma deposition, thus anticipating or rendering obvious independent claims 1, 2 and 13. Applicants respectfully disagree. There is no disclosure or teaching that the substrate material is first cross linked before any further modification. Thus, Badyal '569 does not disclose/teach all of the limitations of independent claims 1, 2 and 13, and thus Badyal '569 does not anticipate/render obvious independent claims 1, 2 and 13. M.P.E.P. §§2131, 2143.

Claims 3, 7-12 and 22-23 each recite combinations of features of independent claim 1, and hence claims 3, 7-12 and 22-23 are not anticipated/patentable over Badyal '569 for at least the above-stated reasons that claim 1 is not anticipated/patentable over Badyal '569.

Furthermore, claims 14-16 each recite combinations of features of independent claim 13, and hence claims 14-16 are not anticipated/patentable over Badyal '569 for at least the above-stated reasons that claim 13 is not anticipated/patentable over Badyal '569.

As a result of the foregoing, Applicants respectfully assert that not each and every claim limitation was found within Badyal '569, and thus claims 1-3, 7-16 and 22-23 are not anticipated/rendered obvious over Badyal '569.

- B. Claims 1-3, 8-10 and 13 are not properly rejected under 35 U.S.C. §102(b) as being anticipated by Kamel, or in the alternative, under 35 U.S.C. §103(a) as being obvious over Kamel.

Kamel discloses a two step plasma process wherein the first step is the removal of polymer substrate and material for cleaning, followed by covalent grafting of a biocompatible polymer. As such, the features of independent claims 1, 2 and 13 are not disclosed in Kamel and thus are not anticipated by Kamel. With regard to the inventive step, there is no teaching of cross-linking of the substrate. The Examiner relies on the

allegedly implicit disclosure of the additional step of cross-linking by first forming a plasma initiated polymer layer on the substrate. The current amended claims do not disclose this step in producing the stable conditioning effect.

Thus, Kamel does not disclose/teach all of the limitations of independent claims 1, 2 and 13, and thus Kamel does not anticipate/render obvious independent claims 1, 2 and 13. M.P.E.P. §§2131, 2143.

Claims 3 and 8-10 each recite combinations of features of independent claim 1, and hence claims 3 and 8-10 are not anticipated/patentable over Kamel for at least the above-stated reasons that claim 1 is not anticipated/patentable over Kamel.

As a result of the foregoing, Applicants respectfully assert that not each and every claim limitation was found within Kamel, and thus claims 1-3, 8-10 and 13 are not anticipated/rendered obvious over Kamel.

- C. Claims 1-8, 13-14 and 17-23 are not properly rejected under 35 U.S.C. §102(b) as being anticipated by Peyman, or in the alternative, under 35 U.S.C. §103(a) as being obvious over Peyman.

The Examiner's comments relate to coating lenses with a plasma deposited polymeric coating. Unlike independent claims 1, 2 and 13 of the current application, the first step in this process is not cross-linking the substrate itself, rather the cross-linking is performed after the coating is formed. Thus, Peyman does not disclose/teach all of the limitations of independent claims 1, 2 and 13, and thus Peyman does not anticipate/render obvious independent claims 1, 2 and 13. M.P.E.P. §§2131, 2143.

Claims 3-8 and 22-23 each recite combinations of features of independent claim 1, and hence claims 3-8 and 22-23 are not anticipated/patentable over Peyman for at least the above-stated reasons that claim 1 is not anticipated/patentable over Peyman.

Furthermore, claims 14 and 17-21 each recite combinations of features of independent claim 13, and hence claims 14 and 17-21 are not anticipated/patentable over Peyman for at least the above-stated reasons that claim 13 is not anticipated/patentable over Peyman.

As a result of the foregoing, Applicants respectfully assert that not each and every claim limitation was found within Peyman, and thus claims 1-8, 13-14 and 17-23 are not anticipated/rendered obvious over Peyman.

VIII. REJECTIONS UNDER 35 U.S.C. §103(a):

The Examiner has rejected claim 1-3, 7-19 and 23 under 35 U.S.C. §103(a) as being unpatentable over Badyal et al. (U.S. Patent No. 6,551,950) (hereinafter "Badyal '950") in view of Seki or vice-versa. Additionally, claims 1-3, 8-10 and 13-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kamel in view of Yamasaki. In addition, claims 9-10 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Sano. Furthermore, the Examiner has rejected claims 9-10 and 15-16 under 35 U.S.C. §103(a) as being unpatentable over Peyman.

Applicants respectfully traverse for at least the reasons stated below and respectfully request the Examiner to reconsider and withdraw these rejections.

A. Claims 1-3, 7-19 and 23 are not properly rejected under 35 U.S.C. §103(a) as being unpatentable over Badyal '950.

Badyal '950 relates to plasma deposition on a substrate to produce hydrophobic coatings. The Examiner states, without any justification, that it is inherently disclosed that some cross-linking will occur during plasma deposition, thus rendering obvious independent claims 1, 2 and 13. Applicants respectfully disagree. There is no disclosure or teaching that the substrate material is first cross linked before any further modification.

Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting independent claims 1, 2 and 13, since the Examiner is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Furthermore, neither does Seki discuss first cross-linking the substrate material. Therefore, Applicants cannot see how the teachings of each document lead the skilled person to the current invention. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting independent claims 1, 2 and 13, since the Examiner is

relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Claims 3, 7-12 and 23 each recite combinations of features of independent claim 1, and hence claims 3, 7-12 and 23 are patentable over Badyal '950 in view of Seki or vice-versa for at least the above-stated reasons that claim 1 is patentable over Badyal '950 in view of Seki or vice-versa.

Furthermore, claims 14-19 each recite combinations of features of independent claim 13, and hence claims 14-19 are patentable over Badyal '950 in view of Seki or vice-versa for at least the above-stated reasons that claim 13 is patentable over Badyal '950 in view of Seki or vice-versa.

As a result of the foregoing, Applicants respectfully assert that there are numerous claim limitations not taught or suggested in Badyal '950 in view of Seki or vice-versa, and thus the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1-3, 7-19 and 23. M.P.E.P. §2143.

B. Claims 1-3, 8-10 and 13-19 are not properly rejected under 35 U.S.C. §103(a) as being unpatentable over Kamel in view of Yamasaki.

Kamel discloses a two step plasma process wherein the first step is the removal of polymer substrate and material for cleaning, followed by covalent grafting of a biocompatible polymer. As such, the features of independent claims 1, 2 and 13 are not taught in Kamel and thus are patentable over Kamel. With regard to the inventive step, there is no teaching of cross-linking of the substrate. The Examiner relies on the allegedly implicit disclosure of the additional step of cross-linking by first forming a plasma initiated polymer layer on the substrate. The current amended claims do not disclose this step in producing the stable conditioning effect. As such, the present claims are novel and inventive of the prior art, including when the teachings of Kamel are combined with Yamasaki, because the documents are directed to completely different fields of endeavour.

Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1, 2 and 13, since the Examiner is relying upon incorrect, factual

predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Claims 3 and 8-10 each recite combinations of features of independent claim 1, and hence claims 3 and 8-10 are patentable over Kamel in view of Yamasaki for at least the above-stated reasons that claim 1 is patentable over Kamel in view of Yamasaki.

Furthermore, claims 14-19 each recite combinations of features of independent claim 13, and hence claims 14-19 are patentable over Kamel in view of Yamasaki for at least the above-stated reasons that claim 13 is patentable over Kamel in view of Yamasaki.

As a result of the foregoing, Applicants respectfully assert that there are numerous claim limitations not taught or suggested in Kamel in view of Yamasaki, and thus the Examiner has not presented a prima facie case of obviousness in rejecting claims 1-3, 8-10 and 13-19. M.P.E.P. §2143.

C. Claims 9-10 and 15-16 are not properly rejected under 35 U.S.C. §103(a) as being unpatentable over Peyman.

As stated above, the Examiner's comments relate to coating lenses with a plasma deposited polymeric coating. Unlike independent claims 1, 2 and 13 of the current application, the first step in this process is not cross-linking the substrate itself, rather the cross-linking is performed after the coating is formed. Thus, Peyman does not teach all of the limitations of independent claims 1 and 13.

Claims 9-10 each recite combinations of features of independent claim 1, and hence claims 9-10 are patentable over Peyman for at least the above-stated reasons that claim 1 is patentable over Peyman.

Furthermore, claims 15-16 each recite combinations of features of independent claim 13, and hence claims 15-16 are patentable over Peyman for at least the above-stated reasons that claim 13 is patentable over Peyman.

As a result of the foregoing, Applicants respectfully assert that there are numerous claim limitations not taught or suggested in Peyman, and thus the Examiner has not

presented a prima facie case of obviousness in rejecting claims 9-10 and 15-16. M.P.E.P. §2143.

- D. Claims 9-10 and 16 are not properly rejected under 35 U.S.C. §103(a) as being unpatentable over Sano.

As stated above, Sano teaches the sulphonation of a membrane substrate using a plasma discharge. Sano does not teach that a substrate is cross-linked in a first step before further plasmachemical modification, as claimed in independent claims 1 and 13. Hence, Sano does not anticipate independent claims 1 and 13. Claims 9-10 depend from independent claim 1 and claim 16 depends from independent claim 13. Hence, claims 9-10 and 16 are patentable over Sano for at least the reasons that claims 1 and 13, respectively, are not anticipated by Sano.

IX. CONCLUSION:

As a result of the foregoing, it is asserted by Applicants that claims 1-23 in the Application are in condition for allowance, and respectfully request an allowance of such claims. Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

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